

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0976**

State of Minnesota,
Respondent,

vs.

Shane Aaron Stroschein,
Appellant.

**Filed February 6, 2023
Affirmed
Bjorkman, Judge**

Benton County District Court
File No. 05-CR-19-1177

Keith Ellison, Attorney General, Lisa Lodin Peralta, Assistant Attorney General, St. Paul, Minnesota; and

Philip K. Miller, Benton County Attorney, Karl Schmidt, Assistant County Attorney, Foley, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Segal, Chief Judge; and Reilly, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges his conviction of receiving stolen property, arguing that he was denied a public trial. We affirm.

FACTS

In June 2019, appellant Shane Stroschein was charged with receiving stolen property. His trial was initially set for spring 2020, but it was cancelled and indefinitely postponed due to the COVID-19 pandemic. In February 2021, the Minnesota Supreme Court issued an order permitting district courts “in any county” to hold in-person criminal jury trials effective March 15, 2021, provided they adhere to certain “guidelines and exposure measures.” *Order Governing the Continuing Operations of the Minnesota Judicial Branch*, No. ADM20-8001 (Minn. Feb. 18, 2021). Those measures included: (1) social distancing of six feet for all people in courtrooms, which required spreading out jurors; (2) limiting courtroom access to parties, their attorneys, any necessary court staff, and other individuals designated by the court as necessary to the proceeding; and (3) delivering services remotely by phone, video, or web. *Id.*; *Minnesota Judicial Branch COVID-19 Preparedness Plan*, Minn. Jud. Council (Minn. Mar. 3, 2021).

Stroschein’s trial began on March 15, 2021. It was the first in-person jury trial in Benton County since the beginning of the pandemic. The district court implemented the required measures by limiting courtroom access to Stroschein, the attorneys, and the jurors (who were spread out around the courtroom), while providing alternative access for members of the public through what court staff described as a “virtual meeting room.” Stroschein did not object to these measures. At the end of his two-day trial, the jury found him guilty.

Stroschein appealed and this court stayed the appeal to allow him to pursue postconviction relief. He filed a postconviction petition asserting, in relevant part, that he

was denied the right to a public trial because his girlfriend was denied admission to the courtroom. The postconviction court conducted an evidentiary hearing. Court staff testified that, at the time of Stroschein’s trial, they had printed instructions to give to members of the public interested in accessing a trial through the “virtual meeting room.” They recalled Stroschein’s girlfriend asking about other matters but never about accessing the trial. Stroschein testified that the presiding judge and the attorneys told him that his girlfriend could not attend the trial in person but could listen to it by phone. He did not believe that she ever received the call-in number but did not claim to have sought any assistance in getting it to her. Stroschein’s girlfriend testified that she did not ask at the courthouse about alternative means of accessing the trial; she searched online and found a number to call to listen to the trial but only right as the trial was ending.

Based on this testimony, the postconviction court denied relief, reasoning that the pandemic necessitated the courtroom restrictions “to minimize the risk of exposure to the litigants and the public at large,” Stroschein’s trial was not completely closed to the public because “alternative access was available,” and granting a new trial based on the unobjected-to restrictions was not necessary to ensure the fairness and integrity of the judicial process. We subsequently reinstated this appeal.

DECISION

The federal and state constitutions provide criminal defendants with a right to a public trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. But this right is “not absolute.” *State v. Modtland*, 970 N.W.2d 711, 721 (Minn. App. 2022), *rev. granted on other ground* (Minn. Apr. 27, 2022). It “may give way in certain cases to other rights or interests.”

Pulczynski v. State, 972 N.W.2d 347, 359 (Minn. 2022) (quotation omitted). A courtroom closure may be justified if

(1) the party seeking to close the courtroom advances an overriding interest that is likely to be prejudiced, (2) the closure is no broader than necessary to protect that interest, (3) the district court considers reasonable alternatives to closing the proceeding, and (4) the district court makes findings adequate to support the closure.

Modtland, 970 N.W.2d at 721 (quotation omitted) (citing *Waller v. Georgia*, 467 U.S. 39, 48 (1984)).

When a defendant does not object to a courtroom closure in the district court, the plain-error standard applies on appeal. *Pulczynski*, 972 N.W.2d at 357-59. Under that standard, the defendant must show that (1) there was an error, (2) the error was plain, and (3) the error affected the defendant’s substantial rights. *Id.* at 356. But even if the defendant makes this showing, appellate courts are still constrained to grant relief “*only* when [the error] seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Id.* at 356, 359.

In applying these principles to unobjected-to pandemic-related courtroom restrictions, the *Pulczynski* court declined to decide whether the restrictions were “justified under the *Waller* test.” *Id.* at 357 n.5. Instead, it focused on the impact of the restrictions on the fairness of the judicial system. *Id.* at 358-60 & 358 n.8 (explaining it is unnecessary to “reach the question of individual harm” if the claimed error did not “seriously affect” judicial proceedings generally). In doing so, the court emphasized the “serious health concerns presented by the COVID-19 pandemic” and declared that those concerns

“justified adjustments to trial procedures, including reconfiguring courtrooms and limiting the number of persons allowed in courtrooms to accommodate the need for physical distancing and to assuage concerns of potential jurors without whom no jury trial could be held.” *Id.* at 359-60. The court also noted that the courtroom restrictions enabled the trial to proceed without further delay. *Id.* at 360. Ultimately, the *Pulczynski* court denied relief because the failure to correct the alleged public-trial error would not “cause the public to seriously question the fairness and integrity of our judicial system.” *Id.*

As in *Pulczynski*, the unobjected-to courtroom restrictions that Stroschein now deems erroneous were designed to keep all trial participants as safe as possible during an unprecedented public-health crisis. The restrictions permitted Stroschein’s trial on a 21-month-old charge to proceed without further delay. And they were balanced with accommodations that afforded the public alternative access to the trial. Stroschein was aware of this alternative access, and court staff were ready to assist members of the public in using it. The fact that Stroschein did not provide this information to others or help others obtain it from court staff does not negate its availability.¹ Because we are convinced that the unobjected-to courtroom restrictions implemented for Stroschein’s trial would not lead the public to doubt the fairness and integrity of the judicial system, we conclude that Stroschein is not entitled to a new trial.

Affirmed.

¹ Stroschein also contends the courtroom restrictions infringed on the right of the public to attend his trial. But this case concerns only Stroschein’s right to a public trial, not anyone else’s rights. *See Pulczynski*, 972 N.W.2d at 355 n.4 (noting that the public’s First Amendment right to access a trial “is not at issue here”).